

Agricultural Marketing Service, USDA

§ 906.40

shall act as trustee or trustees for the committee.

[25 FR 9093, Sept. 22, 1960. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 31 FR 10462, Aug. 4, 1966]

RESEARCH AND DEVELOPMENT

§ 906.37 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects, including paid advertising, designed to assist, improve, or promote the marketing, distribution, and consumption of fruit. Any such project for the promotion and advertising of fruit may utilize an identifying mark which shall be made available for use by all handlers in accordance with such terms and conditions as the committee, with the approval of the Secretary, may prescribe. The expenses of such projects shall be paid from funds collected pursuant to § 906.34.

[31 FR 10462, Aug. 4, 1966]

REGULATION

§ 906.38 Marketing policy.

Prior to or at the same time as initial recommendations are made pursuant to § 906.39, the committee shall submit to the Secretary a report setting forth the marketing policy it deems desirable for the industry to follow in shipping fruit from the production area during the ensuing season. Additional reports shall be submitted from time to time if it is deemed advisable by the committee to adopt a new or modified marketing policy because of changes in the demand and supply situation with respect to fruit. The committee shall publicly announce the submission of each marketing policy report and copies thereof shall be available at the committee's office for inspection by any producer or handler. In determining each such marketing policy the committee shall give due consideration to the following:

- (a) Market prices of fruit, including prices by grade, size, and quality in different packs, and such prices by foreign competing areas;
- (b) Supply of fruit, by grade, size, and quality in the production area, and in

other production areas, including foreign production areas;

(c) Trend and level of consumer income;

(d) Marketing conditions affecting fruit prices; and

(e) Other relevant factors.

§ 906.39 Recommendations for regulations.

The committee, upon complying with the requirements of § 906.38, may recommend regulations to the Secretary whenever it finds that such regulations, as are provided for in this subpart, will tend to effectuate the declared policy of the act. The committee shall give notice to handlers of any such recommendation at the same time such recommendation is submitted to the Secretary.

§ 906.40 Issuance of regulations.

The Secretary shall limit the handling of fruit whenever he finds from the recommendation and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such regulations may:

(a) Limit the handling of particular grades, sizes, qualities, maturities, or packs of any or all varieties of fruit during a specified period or periods: *Provided*, That specific maturity requirements applicable to the handling of any variety may be prescribed under this section only in the event that appropriate maturity requirements for such variety are not in effect under State authority.

(b) Limit the handling of particular grades, sizes, qualities, or packs of fruit differently for different varieties, for different containers, for different purposes specified in § 906.42, or any combination of the foregoing, during any period.

(c) Limit the handling of fruit by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity.

(d) Fix the size, weight, capacity, dimensions, or pack of the container or containers which may be used in the packaging, transportation, sale, shipment, or other handling of fruit.

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(e) Prohibit the handling (1) of any fruit which does not have marked on each container the grade or the registered grade label of the fruit contained therein; (2) of any grapefruit which does not have marked on each fruit the word *Texas* or other words implying Texas origin, except that the committee may recommend and the Secretary establish a tolerance for grapefruit in any container or lot not so marked; and (3) of any container fruit which is misbranded as to variety.

(f) No regulations may be issued under the provisions of this subpart which allots to individual handlers the quantity of fruit which each handler may ship during any regulation period.

§ 906.41 Gift fruit shipments.

The handling to any person of gift packages of fruit individually addressed to such person, in quantities aggregating not more than 500 pounds and not for resale, are exempt from the provisions of §§ 906.34, 906.40, and 906.45, and the regulations issued thereunder, but shall conform to such safeguards as may be established pursuant to § 906.43.

§ 906.42 Shipments for special purposes.

Upon the basis of recommendations and information submitted by the committee, or other available information, the Secretary, whenever he finds that it will tend to effectuate the declared policy of the act, shall modify, suspend, or terminate regulations issued pursuant to §§ 906.34, 906.40, 906.45, or any combination thereof, in order to facilitate the handling of fruit:

(a) For relief or for charity;

(b) For processing or for manufacture or conversion into specified products; and

(c) In such minimum quantities and for such other purposes as may be specified by the committee with the approval of the Secretary.

§ 906.43 Notification of regulations.

The Secretary shall notify the committee of any regulations issued or of any modification, suspension, or termination thereof. The committee shall give reasonable notice thereof to handlers.

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§ 906.44 Safeguards.

(a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent the handling of fruit pursuant to § 906.41 or § 906.42 from entering channels of trade for other than the specific purpose authorized therefor, and rules governing the issuance and the contents of certificates of privilege if such certificates are prescribed as safeguards by the committee. Such safeguards may include requirements that:

(1) Handlers shall file applications with the committee to ship fruit pursuant to §§ 906.41 and 906.42.

(2) Handlers shall obtain inspection provided by § 906.45, or pay the assessment levied pursuant to § 906.34, or both, in connection with shipments made under § 906.42: *Provided*, That such inspection and assessment requirements shall not apply to fruit handled for canning or freezing.

(3) Handlers shall obtain certificates of privilege from the committee to handle fruit affected or to be affected under the provisions of §§ 906.41 and 906.42.

(b) The committee may rescind or deny certificates of privilege to any handler if proof is obtained that fruit handled by him for the purposes stated in §§ 906.41 and 906.42 was handled contrary to the provisions of this part.

(c) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

(d) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of fruit covered by such applications, the number of such applications denied and certificates granted, the quantity of fruit handled under duly issued certificates, and such other information as may be requested.

INSPECTION

§ 906.45 Inspection and certification.

(a) During any period in which handling of a variety of a type of fruit is regulated pursuant to §§ 906.34, 906.40, 906.42, or any combination thereof, no handler shall handle any variety of